IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 11TH APRIL 2007 / 21ST CHAITHRA 1929

Crl.MC.No. 1160 of 2007()

AGAINST THE ORDER DATED 20/03/2007 IN CMP 472/07 IN ST.700/2006 of J.F.C.M. COURT-IV, THIRUVANANTHAPURAM

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PETITIONER/ACCUSED:

RENUKA RACHEL ABRAHAM
PHYSICAL EDUCATION TEACHER
CHRIST NAGAR SCHOOL, VELLAYAMBALAM.

BY ADV. SRI.M.SREEKUMAR

RESPONDENTS/COMPLAINANT & STATE:

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1. LETTY PATRIC, KALPANA HOUSE
   BRRA-221, BURMA ROAD
   KUMARAPURAM, THIRUVANANTHAPURAM.

2. STATE OF KERALA, REP. BY THE PUBLIC
   PROSECUTOR, HIGH COURT OF KERALA
   ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI. GIKKU JAC

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1160 of 2007

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Dated this the 11th day of April, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the N.I. Act. The trial has reached its fag end. It is the case of the petitioner that there was no transaction between her and the complainant as alleged on the date alleged by the complainant. In support of her case, she examined herself and proved her passport. When Ext.D1 passport was marked, the complainant appears to have realised the incongruity and claimed a further opportunity to examine her. That application was under Section 311 Cr.P.C. That was allowed by the learned Magistrate by Annex.F, which is impugned in this proceedings.

2. The learned counsel for the petitioner submits that no amount of explanation by the complainant can improve the matter. No opportunity to fill up the lacuna in the case of the prosecution can be granted. In these circumstances the impugned order may be set aside, it is prayed.

3. I shall alertly remind myself of the nature, quality and contours of the jurisdiction of this Court under Section 482 Cr.P.C. The jurisdiction which is sought to be invoked is an extra ordinary inherent jurisdiction. Such jurisdiction is to be invoked only in aid of justice.

4. On the basis of the materials presently available, I am unable to accept the argument that this is a fit case where the powers under Section 482 Cr.P.C. can or ought to be invoked. In giving the complainant a further opportunity to explain the alleged inaccuracy in the evidence that is tendered, I can see no element of any vice which would justify invocation of the powers under Section 482 Cr.P.C.

5. This Crl.M.C. is accordingly dismissed. However, I may hasten to observe that I have not intended to express any opinion on merits about the acceptability of the plea of the complainant. I have only chosen to hold that the order does not warrant any correction by invoking the inherent jurisdiction under Section 482 Cr.P.C. The petitioner shall be entitled to raise all her contentions. Even the contention that the impugned order is not correct can at later stages be raised if she finds it necessary to

challenge the final order in the prosecution by initiating appropriate proceedings in appeal.

(R. BASANT)
Judge

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